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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/815,596	04/01/2004	Patrick W. McManus	14858-0007	1157
27268	7590	09/07/2005	EXAMINER	
BAKER & DANIELS LLP 300 NORTH MERIDIAN STREET SUITE 2700 INDIANAPOLIS, IN 46204			GUTMAN, HILARY L	
			ART UNIT	PAPER NUMBER
			3612	

DATE MAILED: 09/07/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/815,596	MCMANUS ET AL.	
	Examiner	Art Unit	
	Hilary Gutman	3612	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 11 August 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-5 and 31-55 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-5 and 31-55 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 01 April 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>7/6/04</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Election/Restrictions

1. Applicant's election without traverse of species B in the reply filed on 8/11/05 is acknowledged.

Drawings

2. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they do not include the following reference sign(s) mentioned in the description: 16, 22, 26, 60, 60'. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

3. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the wheel base increasing during movement of the expansion portion of claims 34 and 51; the seal of claims 38 and 55; the length of the vehicle remaining constant during movement of the bed expansion portion of claim 40; and the adjustable wheel base of claim 47 must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Specification

4. Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

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5. The lengthy specification has not been checked to the extent necessary to determine the presence of all possible minor errors. Applicant's cooperation is requested in correcting any errors of which applicant may become aware in the specification.

Claim Objections

6. Claim 50 is objected to because of the following informalities: on line 1, "increase" should be "increases". Appropriate correction is required.

Claim Rejections - 35 USC § 112

7. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

8. Claims 3, 34-38, 40, 47, and 50-51 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

For claims 3, 34, 47, and 51, the change in wheel base length is unclear since the description does not adequately disclose the interrelationship of the "drive train, wiring, and plumbing" of the vehicle with respect to the expansion portion. Specifically, it is unclear how the wheel base will adjust lengthwise with the corresponding extension or retraction of the expansion portion.

For claim 35, it is unclear how the expansion portion increases "the longitudinal length of the body" (claim 31) when the passenger space is recited to increase with the extension of the expansion portion.

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For claim 38, the recitation of the seal between the expansion portion and the cab implies the expansion portion is a cab expansion portion. Moreover, it is unclear how the “longitudinal length of the body” (claim 31) increases when the expansion portion is a “cab” expansion portion.

For claim 40, the recitation that the vehicle has a constant length during movement is altogether unclear since the bed expansion portion clearly “expands” or “increases” the length of the vehicle (as best seen in Figure 2).

For claim 50, it is unclear how the vehicle length increases as the cab expansion portion increases.

Claim Rejections - 35 USC § 102

9. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

10. Claims 31-33, 39, and 41-46 are rejected under 35 U.S.C. 102(b) as being anticipated by Mayer.

For claim 31, Mayer (3,004,790) discloses a vehicle including: a body having a cab, a bed 14, a longitudinal axis, and a longitudinal length; and an expansion portion (Figure 2) movable between an extended position (Figure 2) and a retracted position (Figure 1), movement

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of the expansion portion from the retracted position to the extended position increasing the longitudinal length of the body.

With regard to claim 33, the wheel base of the vehicle remains constant during movement of the expansion portion from the retracted position to the extended position.

For claim 39, Mayer disclose a vehicle including: a body having a cab and a bed 14 having a front end and a back end; and a bed expansion portion connected to the bed for movement toward the back end into a retracted position and away from the back end into an extended position thereby respectively decreasing and increasing a cargo area of the bed.

With regard to claim 41, the bed includes first and second side walls 16, 18 and the bed expansion portion includes first and second side walls 28, 30 substantially positioned between the first and second side walls of the bed when the bed expansion portion is in the retracted position.

With regard to claim 43, the bed expansion portion includes a tail gate 22.

With regard to claim 44, the bed expansion portion includes a bumper 86.

With regard to claim 45, the bumper is positioned closer to the cab when in the retracted position than when positioned in the extended position.

With regard to claim 46, the bed includes an upper edge and the bed expansion portion includes an upper edge that is substantially continuous with the upper edge of the bed.

11. Claims 4, 49, and 52-54 are rejected under 35 U.S.C. 102(b) as being anticipated by Corey et al.

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For claim 4, Corey et al. (6,213,531) disclose a vehicle 25, including: a body having a cab 22, a bed 24, and a longitudinal axis; and an expansion portion 40 connected to a back end of the cab for movement toward the back end into a retracted position and away from the back end into an extended position, thereby respectively decreasing and increasing an interior space of the cab.

For claim 39, Corey et al. disclose a vehicle including: a body having a cab and a bed, the cab having a back end and a front end; and a cab expansion portion 40 connected to a back end of the cab for movement toward the back end into a retracted position and away from the back end into an extended position, thereby respectively decreasing and increasing an interior space of the cab.

With regard to claim 52, the cab expansion portion is substantially positioned in the cab when in the retracted position and substantially positioned outside of the cab when in the extended position.

With regard to claim 53, the cab expansion portion includes at least one member telescopically received in the cab.

With regard to claim 54, the cab expansion portion includes a window 44 that is exposed when the cab expansion portion is in the extended position.

12. Claims 4-5, 49, and 52-54 are rejected under 35 U.S.C. 102(e) as being anticipated by de Gaillard.

For claim 4, de Gaillard (6,517,135) discloses a vehicle, including: a body having a cab, a bed 11, and a longitudinal axis; and an expansion portion 4 connected to a back end of the cab

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for movement toward the back end into a retracted position and away from the back end into an extended position, thereby respectively decreasing and increasing an interior space of the cab.

With regard to claim 5, the expansion portion includes a rear wall extending substantially between a pair of side walls of the bed, and a plurality of telescopic sections that are substantially nested when the expansion portion is in the retracted position, and extended when the expansion portion is in the extended position.

For claim 39, de Gaillard '135 discloses a vehicle 1 including: a body having a cab 2 and a bed 11, the cab having a back end and a front end; and a cab expansion portion 4 connected to a back end of the cab for movement toward the back end into a retracted position and away from the back end into an extended position, thereby respectively decreasing and increasing an interior space of the cab.

With regard to claim 52, the cab expansion portion is substantially positioned in the cab when in the retracted position and substantially positioned outside of the cab when in the extended position.

With regard to claim 53, the cab expansion portion includes at least one member telescopically received in the cab.

With regard to claim 54, the cab expansion portion includes a window that is exposed when the cab expansion portion is in the extended position.

With regard to claim 55, the cab expansion portion includes a seal positioned adjacent to the cab.

Claim Rejections - 35 USC § 103

13. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

14. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

15. Claims 1-2 are rejected under 35 U.S.C. 103(a) as being unpatentable over de Gaillard in view of Bradford.

For claim 1, de Gaillard (6,517,135) discloses a vehicle, including: a body having a cab and a bed; a first expansion portion connected to a back end of the cab for movement toward the back end into a retracted position and away from the back end into an extended position, thereby respectively decreasing and increasing an interior space of the cab.

De Gaillard lacks a second expansion portion connected to the bed for movement toward the back end into a retracted position and away from the back end into an extended position, thereby respectively decreasing and increasing a cargo area of the bed.

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Bradford (6,367,858) teaches a second expansion portion connected to a bed of a vehicle for movement toward a back end into a retracted position and away from the back end into an extended position, thereby respectively decreasing and increasing a cargo area of the bed.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have provided a second expansion portion as taught by Bradford for the bed of the vehicle of de Gaillard in order to increase the cargo area of the bed.

With regard to claim 2, the vehicle has a first length when the second expansion portion is in the retracted position and a second length, which is larger than the first length, when the second expansion portion is in the extended position.

16. Claims 39 and 48 are rejected under 35 U.S.C. 103(a) as being unpatentable over de Gaillard in view of Bradford.

For claim 39, de Gaillard (6,517,135) discloses a vehicle including: a body having a cab and a bed having a front end and a back end.

With regard to claim 48, further comprising a cab extension portion movable between a retracted position providing a first volume of passenger space and an extended position providing a second volume of passenger space that is greater than the first volume of passenger space.

De Gaillard lacks a bed expansion portion connected to the bed for movement toward the back end into a retracted position and away from the back end into an extended position thereby respectively decreasing and increasing a cargo area of the bed.

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Bradford (6,367,858) teaches a bed expansion portion connected to a bed of a vehicle for movement toward a back end into a retracted position and away from the back end into an extended position, thereby respectively decreasing and increasing a cargo area of the bed.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have provided a second expansion portion as taught by Bradford for the bed of the vehicle of de Gaillard in order to increase the cargo area of the bed.

Allowable Subject Matter

17. Claims 3, 34-38, 40, 47, 50-51 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

Conclusion

18. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

19. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hilary Gutman whose telephone number is 571-272-6662.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Glenn Dayoan can be reached on 571-272-6659. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

20. **Any response to this action should be mailed to:**

Assistant Commissioner for Patents

Washington, D.C. 20231


or faxed to:

(571) 273-8300, (for formal communications intended for entry)

or:

(571) 273-6662, (for informal or draft communications, please clearly label

"PROPOSED" or "DRAFT").



Hilary Gutman
August 24, 2005